

August 23, 2005

Mr. Polina Murilo  
Vesur Invalid Coach  
448 Quaker Church Road  
Randolph, New Jersey 07869

Re: **Notice of Proposed Assessment of Penalties:**  
**Mobility Assistance Vehicle Service Provider**  
Investigation Control #05-B-046

Dear Mr. Murilo:

The New Jersey Department of Health and Senior Services is vested with the responsibility of carrying out the provisions of the Health Care Facilities Planning Act found at N.J.S.A. 26:2H-1, et seq., which was enacted, in part, to ensure that hospital and related health care services rendered in New Jersey are of the highest quality. As defined at N.J.S.A. 26:2H-2b, health care services include pre-hospital basic life support ambulance services. In addition, in accordance with §6.4 and §6.6 of the New Jersey Medical Assistance and Health Services Act found at N.J.S.A. 30:4D-1 et seq., this Department is responsible for the development of minimum licensure requirements concerning the equipment, supplies and vehicles of providers of mobility assistance vehicle services.

Furthermore, N.J.S.A. 26:2H-5 grants the Commissioner of Health and Senior Services the power to inquire into health care services and to conduct periodic inspections with respect to the fitness and adequacy of the equipment and personnel employed by those services. As such, in furtherance of each of the aforementioned statutory objectives, the Department of Health and Senior Services (the Department) adopted regulations that govern the licensure and inspection of ambulance and mobility assistance vehicle service providers and their vehicles. Those regulations are set forth in their entirety at N.J.A.C. 8:40-1.1, et seq.

On April 12, 2005, staff of this Department's Office of Emergency Medical Services (OEMS) conducted an unannounced vehicle inspection of Vesur Invalid Coach, vehicle #9, New Jersey license plate #X5562P at 206 Bloomfield Avenue,

Bloomfield, New Jersey. The unannounced vehicle survey revealed the following deficiencies:

1. The patient being transported by Vesur was observed without a seatbelt while seated in a wheelchair in the care of Vesur staff. The seatbelt utilized by Vesur staff was attached to the floor, ran across the patient's lap, then back to the floor. There was no seatbelt in use on the wheelchair itself when the patient was taken from the vehicle into the medical office.
2. The inspection of the vehicle by OEMS revealed that a second wheelchair (unoccupied) was on the floor along the side-door step-well. This wheelchair was not secured and, therefore, not stored in a crashworthy manner. This condition was found when the vehicle was spot-checked at approximately 1:15 P.M. The driver corrected the condition prior to leaving the first vehicle inspection. Vehicle #9 was resurveyed at approximately 2:20 P.M. and the wheelchair was again found unsecured on the floor by the side-door step-well.

As you should know:

1. N.J.A.C. 8:40-5.6(c) states: "Each wheelchair shall have a patient seatbelt that secures the patient into the wheelchair in a configuration similar to an automotive safety belt. Velcro [FN®]-type closures shall not be utilized. The seatbelt shall attach only to the wheelchair, not to the vehicle, and shall not be part of the wheelchair restraint system. The seatbelt shall be properly secured on the patient whenever the patient is in the wheelchair and under the care of the crewmembers, including moving the patient in and out of the vehicle, and transferring the patient to his or her destination."
2. N.J.A.C. 8:40-4.4(e)7 states: "All equipment and supplies carried on the vehicle shall be stored in a crashworthy manner (that is, they shall remain firmly in place and shall not present a hazard to any vehicle occupant in the event of an accident or sudden change in vehicle speed or direction). There shall be sufficient cabinets and other storage spaces within the vehicle so as to meet this requirement. Crashworthy retention systems shall not incorporate rubber straps, "shock cords" or Velcro [FN®]-type closures."

Pursuant to N.J.S.A. 26:2H-13 and N.J.A.C. 8:40-7.2(f), violations shall be considered as a single, different occurrence for each calendar day the violation occurs or remains uncorrected. N.J.A.C. 8:40-7.2(e)9 provides for a fine of \$250 per violation per day of any regulation found at N.J.A.C. 8:40-1.1, et seq. Therefore, you are hereby assessed a penalty in the amount of \$250 for failing to utilize a seatbelt to properly secure a patient in the wheelchair during transportation and assessed a fine of \$250 for using an improper patient restraint system.

Lastly, in accordance with N.J.A.C. 8:40-7.2(c), this letter shall serve as a formal warning for the crashworthy violation listed above pursuant to N.J.A.C. 8:40-4.4(e)7. Specifically, for failing to store equipment in a crashworthy manner. In the event of future violations, the Department may seek to impose stricter penalty and/or corrective actions, such as, but not limited to, a monetary penalty, suspension and/or revocation of Vesur's provider license.

A certified check or money order in the amount of \$500 made payable to "Treasurer, State of New Jersey," must be submitted within 30 days from the date of this notice. In accordance with N.J.S.A. 26:2H-16 and N.J.A.C. 8:40-7.2(h), failure to pay this penalty may result in the delinquent account being referred to the Office of the Attorney General for collection (N.J.S.A. 2A:58-1, et seq.), refusal by the Department to issue or renew a license and/or any such other action as authorized by law. Payment should be forwarded to:

New Jersey Department of Health & Senior Services  
Office of Emergency Medical Services  
P.O. Box 360  
Trenton, NJ 08625-0360  
Attn: Ms. Karen Halupke

Pursuant to N.J.S.A. 26:2H-13 and N.J.A.C. 8:40-7.3, you are entitled to a hearing before the Office of Administrative Law to contest this proposed penalty assessment. Your request for a hearing on this matter must be submitted in writing and must be accompanied by a response to the deficiency noted above. In the event that you request a hearing, this penalty shall be held in abeyance until such time as the hearing has been concluded and a final decision has been rendered.


Your request for a hearing must be submitted within 30 days from the date of this Notice, and should be forwarded to:

New Jersey Department of Health & Senior Services  
Office of Legal & Regulatory Affairs  
P.O. Box 360, Room 805  
Trenton, N.J. 08625-0360  
Attn: Ms. Michele Stark

Please include control number 05-B-046 on all of your correspondence. **Finally, please note that failure to submit a request for a hearing within 30 days from the date of this notice shall render this notice final, and the entire \$500 shall be immediately due and payable.**

If you have any questions concerning this matter, please do not hesitate to contact Mr. Samuel Stewart of my office at (609) 633-7777.

Sincerely,

A handwritten signature in black ink, appearing to read "Karen Halupke". The signature is fluid and cursive, with the first name "Karen" written in a larger, more prominent script than the last name "Halupke".

Karen Halupke, R.N., M.Ed.  
Director, Emergency Medical Services

c: Michele Stark, OLRA  
Charles McSweeney, OEMS  
Samuel Stewart, Esq., OEMS

VIA REGULAR U.S. MAIL  
AND CERTIFIED MAIL #7002 2410 0003 3470 5712  
RETURN RECEIPT REQUESTED